

HOUSE No. 1110

By Mrs. Paulsen of Belmont, petition of Anne M. Paulsen and Kay Khan relative to establishing the office of educational quality and accountability within the Department of Education. Education.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT IMPROVING SCHOOL AND DISTRICT ACCOUNTABILITY PROCESSES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 15 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by striking
3 Section 55A and inserting in place thereof the following:—

4 Section 55A. There shall be established an office of educational
5 quality and accountability, hereinafter referred to as the office,
6 within the department of education but not subject to its control.
7 The purpose of the office shall be to provide an independent
8 mechanism to verify the efforts of schools and school districts to
9 promote a higher level of academic achievement by students.

10 The office shall be directed by a nine member council, known
11 as the educational management audit council, hereinafter referred
12 to as the council, which shall consist of: one member appointed
13 by the Governor and one member appointed by each of the
14 following organizations: the Massachusetts Association of School
15 Superintendents, the Massachusetts Association of School Busi-
16 ness Officers, the Massachusetts Teachers Association, the Massa-
17 chusetts Federation of Teachers, the Massachusetts Association of
18 School Committees, the Massachusetts Parent Teachers Associa-
19 tion, the Massachusetts Association of Secondary School Admin-
20 istrators and the Massachusetts Elementary School Principals
21 Association.

22 One member shall be designated by the Governor to serve as
23 chairperson of the council. Residency in the commonwealth shall
24 be required of the members of the council. Members shall not be

25 compensated for their service but may be reimbursed for neces-
26 sary expenses incurred in the performance of their duties. No
27 members of said council shall be employed by or receive regular
28 compensation from the department of education, or from any inde-
29 pendent school system, in the commonwealth, or serve as a
30 member of any board of trustees of any commonwealth charter
31 school or receive any income directly or indirectly from a com-
32 monwealth charter school. Not more than three members of said
33 council may be employed on a full-time basis by any agency of
34 the commonwealth, including a public college or the University of
35 Massachusetts. Members shall be appointed for terms of five
36 years; provided, however, that of the first members appointed, two
37 shall be appointed for one year, two for two years, two for three
38 years, two for four years and one for five years. Members may be
39 nominated for reappointment but no person shall be appointed to
40 serve more than two full terms. Prior service on said council for a
41 term of less than five years, resulting from an initial appointment
42 or an appointment for the remainder of an unexpired term, shall
43 not be counted as a full term. If a member is absent from any three
44 regularly scheduled meetings in any calendar year, his position on
45 the said council shall be deemed vacant. The chairperson of the
46 council shall forthwith notify the governor and the nominating
47 groups that such vacancy exists.

48 The council shall meet not less than quarterly on a date set by
49 the chairperson and at such other times at the call of the chair-
50 person; provided, however, that the first meeting of the council
51 shall be convened within 30 days after the members have been
52 appointed. The council shall: (1) establish the annual goals for the
53 office; (2) review and approve the protocols for the audit and
54 inspection of schools and school districts, including regional
55 school districts; (3) review the findings of audits and inspections
56 undertaken by the director pursuant to this section; (4) review the
57 performance of the director of the office; and (5) make recommen-
58 dations to facilitate the improvement of schools to the governor,
59 the board of education, the general court, and the local school
60 committee or board of trustees, when appropriate. The council
61 may coordinate with the activities of the board of education to
62 implement section 1J of chapter 69 and with the activities of the
63 education reform and review commission established pursuant to
64 section 79 of chapter 71 of the acts of 1993.

65 Subject to appropriation, the council shall employ a director
66 and establish the salary for the director. Pursuant to the office's
67 appropriation, the director shall employ such inspectors, auditors,
68 professional assistants, attorneys, consultants and other staff as he
69 deems necessary to fulfill the responsibilities of the office and
70 shall determine their salaries and duties. The provisions of
71 section 45 of chapter 30, chapter 31 and chapter 150E shall not
72 apply to employees of the office. The request for the annual
73 appropriation required to carry out the mandate of the office shall
74 be submitted by the chairman of the council to the governor, the
75 secretary of administration and finance and the chairman of the
76 board of education.

77 The office shall act as an independent auditing body verifying
78 educational measurements and tests conducted by or for the
79 department of education in implementing the mandates and direc-
80 tives of chapter 71 of the acts of 1993. The office shall perform
81 not less than 24 school district audits annually; provided, how-
82 ever, that no district where student performance exceeds state
83 standards shall be selected for audit unless all districts where stu-
84 dent performance does not meet state standards have been audited.
85 Specifically, the office shall have the following duties: (1) verify
86 the accuracy of reports of schools and districts by conducting or
87 contracting for periodic program and fiscal audits as necessary;
88 (2) investigate allegations of any breach of academic integrity in
89 the administration of any assessments administered by the depart-
90 ment of education; (3) undertake inspections of schools and
91 school districts to determine the quality of instruction, the perfor-
92 mance of administrative, instructional and other staff and make
93 recommendations about the school and school district goals and
94 performance; (4) review the district's MCAS success plan, if any,
95 submitted to the department of education pursuant to section 1I of
96 chapter 69 and evaluate the implementation of said plan; (5)
97 review the district's implementation of any MCAS grants received
98 to develop or enhance academic support services for students
99 scoring in level 1 or 2; (6) review the impact of unanticipated
100 growth in enrollments and the cost of special education on munic-
101 ipal education budgets, where applicable including, but not lim-
102 ited to, the impact of said costs on other areas of appropriation
103 within the municipal budget; (7) evaluate the alignment of cur-

104 riculum and professional development plans with the state cur-
105 riculum and assessments; (8) review the progress of student
106 achievement.

107 For the purposes of any inspection, or audit, the director shall
108 have access to all necessary papers, vouchers, books, and records
109 pertaining to a school, including a charter school, a school district,
110 and regional school district. Schools, school districts and school
111 personnel shall cooperate with the director for purposes of any
112 inspection or audit pursuant to this section, including but not lim-
113 ited to, participating in interviews and producing books and docu-
114 ments.

115 The office shall provide advance notice of at least ninety cal-
116 endar days to any district of a request for document review and at
117 least one hundred and twenty calendar days notice of any site
118 visit. Neither the document review nor the site visit shall be
119 scheduled during the first two or last two weeks of the academic
120 school year, the week prior to or after the December school vaca-
121 tion or during any MCAS testing period. The site visit shall take
122 place no fewer than twenty days nor more than thirty days after
123 the document review.

124 Districts audited under this section shall be reimbursed costs
125 based on the number of students enrolled in the district. Districts
126 with fewer than 2,000 students shall be paid \$75,000; districts
127 with 2,001 to 5,000 students shall be paid \$50,000, districts with
128 5,001 to 10,000 students shall be paid \$25,000, and districts with
129 more than 10,001 students shall be paid \$5,000.

130 The council shall ensure that any instance of noncompliance
131 with law, misfeasance or malfeasance law shall be referred to the
132 attorney general of the commonwealth and the commissioner of
133 education for appropriate action.

134 The council shall transmit its findings and any resultant recom-
135 mendations to the governor, the board of education, the attorney
136 general, the president of the senate, the speaker of the house of
137 representatives, and the clerk of the house of representatives who
138 shall forward the same to the joint committee on education, arts
139 and the humanities. The council shall compile these audits and
140 inspections into annual reports due each year on the anniversary
141 date of the first meeting of the council.

1 SECTION 2. Chapter 69 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by striking
3 Section 1I and inserting in place thereof the following:—

4 Section 1I. The board shall adopt a system for evaluating on an
5 annual basis the performance of both public school districts and
6 individual public schools.

7 In addition, comprehensive diagnostic assessment of individual
8 students shall be conducted at least in the fourth, eighth and tenth
9 grades. Said diagnostic assessments shall identify academic
10 achievement levels of all students in order to inform teachers, par-
11 ents, administrators and the students themselves, as to individual
12 academic performance. The board shall develop procedures for
13 updating, improving or refining the assessment system.

14 The assessment instruments shall be designed to avoid gender,
15 cultural, ethnic or racial stereotypes and shall recognize sensi-
16 tivity to different learning styles and impediments to learning. The
17 system shall take into account on a nondiscriminatory basis the
18 cultural and language diversity of students in the commonwealth
19 and the particular circumstances of students with special needs.
20 Said system shall comply with federal requirements for accommo-
21 dating children with special needs. All potential English proficient
22 students from language groups in which English language learners
23 programs established under chapter 71A are offered under chapter
24 seventy one A shall also be allowed opportunities for assessment
25 of their performance in the language which best allows them to
26 demonstrate educational achievement and mastery of academic
27 standards and curriculum frameworks established under sec-
28 tions 1D and 1E. For the purposes of this section, a “potential
29 English proficient student” shall be defined as a student who is
30 not able to perform ordinary class work in English; provided,
31 however, that no student shall be allowed to be tested in a lan-
32 guage other than English for longer than three consecutive years.

33 The commissioner is authorized and directed to gather informa-
34 tion, including the information specified herein and such other
35 information as the board shall require, for the purposes of evalu-
36 ating individual public schools, school districts, and the efficacy
37 and equity of state and federal mandated programs. All informa-
38 tion filed pursuant to this section shall be filed in the manner and
39 form prescribed by the department.

40 Each school district shall maintain individual records on every
41 student and employee. Each student record shall contain a unique
42 and confidential identification number, basic demographic infor-
43 mation, program and course information, and such other informa-
44 tion as the department shall determine necessary. Said records
45 shall conform to parameters established by the department.

46 For the purposes of improving the performance of school dis-
47 tricts and individual public schools and the efficacy and equity of
48 state and federal programs and for the purposes of reducing the
49 amount of paperwork to relieve the administrative burden on local
50 districts, each district shall file with the commissioner once in
51 each 3 year period a comprehensive, 3 year district improvement
52 plan.

53 The Department of Education, in consultation with Massachu-
54 setts Partners for Public Schools, shall adopt one uniform format
55 for District Improvement/Professional Development Plans which
56 shall include: improvement objectives; connections to school
57 improvement plans; connections to licensure information of pro-
58 fessional staff including recertification, acquisition of professional
59 licenses including initial licenses, for new teachers, mentoring and
60 induction programs; connections to requirements of the Elemen-
61 tary and Secondary Education Act; student performance data, of
62 which MCAS may be only one of multiple measures used; spe-
63 cific actions, training, curriculum that will be used to address the
64 objectives; district professional development schedule; a timeline
65 for implementation; resources in the form of time, money, and
66 expertise to ensure implementation; and program evaluation
67 methods.

68 On an annual basis, not later than September 1 of each year,
69 each district shall prepare and have available for state review an
70 annual action plan. The district annual action plan shall enumerate
71 the specific activities, persons responsible, and timelines for
72 action to be taken as part of the strategic initiatives set forth in the
73 district's 3 year improvement plan, and shall identify the staff and
74 financial resources allocated to support these initiatives.

75 Annually, the principal of each school, in consultation with the
76 school council established pursuant to this section, shall adopt stu-
77 dent performance goals for the schools consistent with the school
78 performance goals established by the department of education

79 pursuant to state and federal law and regulations and, consistent
80 with any educational policies established for the district shall
81 assess the needs of the school in light of those goals and formulate
82 a school plan to advance such goals and improve student perfor-
83 mance. The school's plan to support improved student perfor-
84 mance shall include, but not be limited to, the same components
85 required for district improvement plans and shall conform to
86 department and district specifications to ensure that such school
87 improvement plans meet state and federal law requirements. Each
88 school improvement plan shall be submitted to the superintendent
89 for review and approval not later than July 1, of the year in which
90 the plan is to be implemented according to a plan development
91 and review schedule, established by the district superintendent.
92 Upon request of the school committee, copies of the plans shall be
93 made available to the committee for review in order to ensure con-
94 sistency with the 3-year district improvement plan and the district
95 annual action plan; provided, however, that the superintendent
96 shall have the final approval authority of all school improvement
97 plans.

98 The Department of Education, in consultation with Massachu-
99 setts Partners for Public Schools, will adopt one uniform format
100 for School Improvement Plans which shall include the following:
101 Improvement objectives; supporting data from multiple sources
102 about student performance; specific actions, training, curriculum
103 that will be used to address the objectives; a timeline for imple-
104 mentation; resources in the form of time, funding and expertise to
105 ensure implementation; and, program evaluation methods.

106 Each school district in which more than 20 percent of the stu-
107 dents score below level two on the Massachusetts Comprehensive
108 Assessment System exam, in this paragraph called MCAS, shall
109 submit an MCAS success plan to the department. The plan shall
110 describe the school district's strategies for helping each student to
111 master the skills, competencies and knowledge required for the
112 competency determination described in subparagraph (i) of the
113 fourth paragraph of section 1D. The department shall determine
114 the elements that shall be required to be included in such plan.
115 These elements may include, but are not limited to, the following:
116 (a) a plan to assess each student's strengths, weaknesses and
117 needs; (b) a plan to use summer school, after school and other

118 additional support to provide each child with the assistance
119 needed; and (e) a plan for involving the parents of students as
120 described in said subparagraph (i) of said fourth paragraph of said
121 section 1D. The department shall examine each district's plan and
122 determine if it has a reasonable prospect of significantly reducing
123 the school district's failure rates. The department shall coordinate
124 oversight of the MCAS success plans with existing audit and
125 oversight functions and with the MCAS grant program.

126 Each school district shall file a report with the department
127 every year by a date and in, a format determined by the board.
128 Said report shall include, but not be limited to, the following:

- 129 (a) an outline of the curriculum and graduation requirements
130 of the district;
- 131 (b) pupil/teacher ratios and class size policy and practice;
- 132 (c) teacher and administrator evaluation procedures;
- 133 (d) statistics, policies, and procedures relative to truancy and
134 dropouts;
- 135 (e) statistics, policies, and procedures relative to expulsions
136 and in school and out-of-school suspensions;
- 137 (f) percent of school-age children attending public schools;
- 138 (g) racial composition of teaching and administrative staff;
- 139 (h) enrollment and average daily attendance;
- 140 (i) the annual budgets and expenditures for both the district
141 and the individual schools in the district.

142 Each school district shall file a description of the following
143 instructional procedures and programs with the department every
144 year:

- 145 (a) art and music programs;
- 146 (b) technology education;
- 147 (c) programs for gifted and talented students;
- 148 (d) adult education programs;
- 149 (e) library and media facilities;
- 150 (f) condition of instructional materials including textbooks,
151 workbooks, audiovisual materials, and laboratory materials;
- 152 (g) types and condition of computers and computer soft-
153 ware;
- 154 (h) basic skills remediation programs;
- 155 (i) drug, tobacco and alcohol abuse programs; multi-cultural
156 education training for students and teachers; and

157 (k) global education.

158 Each school district and charter school shall file an annual
159 report for the current school year regarding implementation of
160 chapter 71B with the department every November 1 first in a
161 format determined by the board. The report shall include, but not
162 be limited to, the following:—

163 (a) the number of children receiving services pursuant to
164 said chapter 71B within each disability category as set forth in
165 section 1 of said chapter 71B;

166 (b) the number of children, by grade level, within each such
167 disability category and the costs of services provided by each such
168 category for such children receiving their education in a publicly
169 operated day school program;

170 (c) the number of children, by grade level, within each such
171 disability category and the costs of services provided by each such
172 category for such children receiving their education in a private
173 day setting;

174 (d) the number of children, by grade level, within each such
175 disability category and the costs of services provided by each such
176 category for such children receiving their education in a private
177 residential setting;

178 (e) the number of children who remain in the regular educa-
179 tion program full time; the number of children who are removed
180 from the regular classroom for up to 25 per cent of the day; the
181 number of, children who are removed from the regular classroom
182 between 25 and 60 per cent of the day;

183 (f) the number of children who are placed in substantially
184 separate classrooms on a regular education school site;

185 (g) the number of children, ages three and four, who are
186 educated in integrated and separate classrooms; and the assign-
187 ment by sex, national origin, economic status, race and religion,
188 of children by age level to special education classes and the distri-
189 bution of children residing in the district by sex, national origin,
190 economic status, race and religion of children by age level; and

191 (h) the number of children, by grade level, receiving special
192 education services who have limited English proficiency.

193 Each school district and charter school shall furnish in a
194 timely manner such additional information as the department shall
195 request.

196 Each school district required to provide an English language
197 learners program under chapter 71A shall file the following infor-
198 mation with the department annually:

199 (a) the type of English language learners programs provided;

200 (b) with regard to limited English proficient students (i) the
201 number enrolled in each type of English language learners pro-
202 gram; (ii) the number enrolled in English as a second language
203 who are not enrolled in another English language learners pro-
204 gram; (iii) the results of basic skills, curriculum assessment,
205 achievement and language proficiency testing, whether adminis-
206 tered in English or in the native language; (iv) the absentee, sus-
207 pension, expulsion, dropout and promotion rates; and (v) the
208 number of years each limited English proficient student has been
209 enrolled in an English language learners program;

210 (c) the number of students each year who have enrolled in
211 institutions of higher education and were formerly enrolled in an
212 English language learners program;

213 (d) the academic progress in regular education of students
214 who have completed an English language learners program;

215 (e) for each limited English proficient student receiving
216 special education, the number of years in the school district prior
217 to special education evaluation and the movement in special edu-
218 cation programs by program placement;

219 (f) the number of limited English proficient students
220 enrolled in programs of occupational or vocational education;

221 (g) the name, national origin, native language, certificates
222 held, language proficiency, grade levels and subjects taught by
223 each teacher of an English language learners program, bilingual
224 aides or paraprofessionals, bilingual guidance or adjustment coun-
225 selors and bilingual school psychologists;

226 (h) the per pupil expenditures for each full time equivalent
227 student enrolled in an English language learners program;

228 (i) the sources and amounts of all funds expended on stu-
229 dents enrolled in English language learners programs, broken
230 down by local, state and federal sources, and whether any such
231 funds expended supplanted, rather than supplemented, the local
232 school district obligation; the participation of parents through
233 parent advisory councils; and whether there were any complaints
234 made with any federal or state court or administrative agency,

235 since the program's inception, concerning the compliance with
236 federal or state minimum legal requirements; the disposition of
237 such complaint and the monitoring and evaluation of any such
238 agreement or court order relative to such complaint.

239 Said information shall be filed in the form of the total for the
240 school district as well as categorized by school, grade and lan-
241 guage.

242 The commissioner annually shall analyze and publish data
243 reported by school districts under this section regarding English
244 language learners programs and limited English proficient stu-
245 dents. Publication shall include, but need not be limited to, avail-
246 ability on the department's worldwide web site. The commissioner
247 shall submit annually a report to the joint committee on education,
248 arts and humanities on such data on a statewide and school district
249 basis, including, but not limited to, by language group and type of
250 English language learners program.

1 SECTION 3. Section 1J of Chapter 69, as so appearing, is
2 hereby amended by striking paragraph two and inserting in place
3 thereof the following paragraph:—

4 Schools that have consistently failed to improve the academic
5 performance of their students shall conduct a New England Asso-
6 ciation of Schools and Colleges (NEASC) Self-Study which shall
7 be used by the Board to determine if the school should be deemed
8 under-performing, in accordance with the board's regulations.
9 Upon determination that a school is under-performing, the com-
10 missioner shall immediately appoint an independent fact-finding
11 team which shall forthwith assess the reasons for the under-perfor-
12 mance and the prospects for improvement and report its findings
13 to the commissioner and the district in which the school is located
14 no later than ninety days from the date of its appointment. No
15 more than six months after the determination that a school is
16 under-performing, the district in which the school is located shall
17 present to the board a remedial plan that shall set forth specific
18 goals for improvement, specific means for attaining such goals,
19 and a timetable, not to exceed twenty-four months, for carrying
20 out the plan. The district shall implement said remedial plan, with
21 such changes or amendments as the board shall direct. During the
22 period of implementation, the commissioner shall provide to the

23 school technical assistance for the improvement of the educational
24 program provided to the students served therein and funding to
25 pay all teachers a per diem contractual salary rate for professional
26 development directly related to the remedial plan to improve per-
27 formance for at least a period of time equivalent to ten (10) addi-
28 tional days beyond the required work year.

1 SECTION 4. Section 1J of Chapter 69 is hereby further
2 amended by adding at the end thereof the following new para-
3 graph:—

4 Should any under-performing issue be addressed through the
5 Department of Education's Performance Improvement Mapping
6 Process (PIM), at least fifty percent of the individuals on the
7 school improvement team must be currently employed as class-
8 room teachers in the school or district, all work related to PIM
9 must be done outside of the regularly scheduled work day and
10 school year, and participants shall be paid for such additional
11 work at their contractual per diem rate.